

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

KARLA TWORIK,
Plaintiff,

District Case No. 09-3463-GC

v.

ASSET ACCEPTANCE, LLC
Defendant.

Federal Case No.

ADAM ALEXANDER (P53584)
Attorney for Plaintiff
18930 West Ten Mile Rd., Ste. 2500
Southfield, MI 48075
(248) 746-3790
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ROBERT M. HORWITZ (P51466)
DAVID A. DEN HOUTEN (P60421)
Attorneys for Defendant
28405 Van Dyke Ave.
Warren, MI 48093
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rhowitz@Assetacceptance.com
ddenhouten@Assetacceptance.com

DEFENDANT'S ANSWER TO PLAINTIFF'S COMPLAINT

NOW COMES Defendant, Asset Acceptance LLC, by and through its attorney, Robert M. Horwitz, P51466 and David A. Den Houten, P60421, and for its Answer to Plaintiff's Complaint, states unto this Honorable Court as follows:

JURISDICTION

1. Neither admit nor deny. Asset further states that it has removed the case to the Federal Court and jurisdiction is proper in that Court.
2. Neither admit nor deny. Asset further states that it leaves the Plaintiff to her strictest proofs.
3. Admit.
4. Deny. Asset further states that it denies the allegation to the extent that it is inconsistent or contrary to the language of the FDCPA or any court's interpretation of the language. Asset does acknowledge that it is subject to the FDCPA.
5. Deny. Asset further states that it has been found to not be a collection agency as defined by the statute referenced.
6. Admit. Asset further states that a credit card account originally with Citibank was previously assigned to it and that a Consent Judgment was recently entered in the amount of \$8,581.68 for

Defendant Asset Acceptance, LLC, against Plaintiff Karla Tworik, in the 62A District Court, case no. 09-0410-GC, representing the balance owed on the subject account.

7. Deny.
8. Neither admit nor deny. Asset further states that it leaves Plaintiff to her strictest proofs.
9. Deny.
10. Neither admit nor deny. Asset further states that it leaves Plaintiff to her strictest proofs.
11. Neither admit nor deny. Asset further states that it leaves Plaintiff to her strictest proofs.
12. Deny.
13. Deny.
14. No response required.
15. Deny. Asset further states that it does not collect on accounts that it does not own.
16. Deny. Asset further states that it denies all subparts to paragraph number 16.
17. Deny.
18. No response required.
19. Deny. Asset further states that it denies all subparts to paragraph number 16.
20. Deny.
21. Deny. Asset further states that it denies Plaintiff is entitled to the relief requested.

WHEREFORE, Defendant requests that Plaintiff's Complaint be dismissed with prejudice, that it be awarded reasonable attorney's fees under 15 USC Sec. 1692k (a)(3), and that the Court grant other relief it deems just and proper.

Respectfully Submitted,



Dated: August 26, 2009

DAVID A. DEN HOUTEN (P60421)
Attorney for Defendant

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AFFIRMATIVE DEFENSES

1. Some of the allegations raised by Plaintiff may have been previously determined in the State Court case involving the underlying account (62A District for the State of Michigan, case no. 09-0410-GC) and therefore those issues are entitled to res judicata/collateral estoppel effect.
2. Failure to state cause of action.
3. Statute of Limitations. Some or all of Plaintiff's claims/allegations may be barred by the one-year Statute of Limitations set forth in the FDCPA at 15 USC Sec. 1692 k(d).
4. Defendant is not subject to liability under the MCPA because it collects only its own debts.
5. The Court should abstain from hearing this action to the extent that Plaintiff's liability on the underlying account has already been determined in light of the prior State Judgment (62A District for the State of Michigan, case no. 09-0410-GC) because that action determined Plaintiff owes the money sought by Defendant.
6. To the extent Defendant is found liable, Defendant relies on the bona fide error defense set forth in the FDCPA at 15 USC Sec. 1692 k(c)

7. To the extent that Defendant is found liable. Defendant is entitled to a set off up to the amount Plaintiff has already been determined to be liable to Defendant in the 62A District for the State of Michigan, case no. 09-0410-GC.

8. Defendant places Plaintiff on notice that it will seek reasonable attorney fees under 15 USC Sec. 1692 k(a)(3) because this lawsuit was brought in bad faith and for the purpose of harassment as retaliation for the State Court lawsuit previously filed by Defendant against Plaintiff.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'DAVID A. DEN HOUTEN', written over a horizontal line.

DAVID A. DEN HOUTEN (P60421)
Attorney for Defendant

Dated: August 26, 2009

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PROOF OF SERVICE

STATE OF MICHIGAN)
)SS.
COUNTY OF MACOMB)

The undersigned, being first duly sworn, deposes and says that on the 26th day of August, 2009, she did cause to have served a copy of Defendant's Answer to Plaintiff's Complaint, Affirmative Defenses and this Proof of Service upon:

Adam Alexander
Attorney at Law
18930 West Ten Mile Rd., Ste. 2500
Southfield, MI 48075

Clerk of the Court
37th District Court
8300 Common Rd.
Warren, MI 48093

by enclosing copies of the same in an envelope properly addressed, and by depositing said envelope in the United States Mail with postage thereon having fully prepaid.

SUBSCRIBED AND SWORN TO before
me, this 26th day of August 2009.

Ms. Teracy Shropshire Notary Public
State of Michigan, County of Macomb
My Commission Expires: 10/22/2015
Acting in the County of Macomb

M. Wilam